

Senate Engrossed

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 274

SENATE BILL 1406

AN ACT

AMENDING SECTION 15-2031, ARIZONA REVISED STATUTES; AMENDING LAWS 2003, CHAPTER 264, SECTIONS 22, 23 AND 35; AMENDING LAWS 2003, FIRST SPECIAL SESSION, CHAPTER 2, SECTION 27; MAKING APPROPRIATIONS; RELATING TO SCHOOL FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)





STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOR

OFFICE OF THE GOVERNOR
1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007

MAIN PHONE: 602-542-4331
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May 28, 2004

The Honorable Ken Bennett
Arizona State Legislature
1700 West Washington
Phoenix, Arizona 85007

Re: SB 1406: school facilities; budget reconciliation

Dear President Bennett:

Today I have signed Senate Bill 1406, subject to my line item veto of two sections of the bill relating to the building renewal formula.

I have line item vetoed section one (page 1, line 2 - page 4, line 14) and section eight (page 7, lines 1-7), the proposed change in the building renewal funding formula, for what is now the third time. My reasons for doing so are unchanged from those set forth in my June 17, 2003 line item veto message regarding House Bill 2534 and my May 9, 2003 veto message regarding House Bill 2012.

Copies of each of my prior veto messages on this issue are attached and incorporated herein by reference.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Janet Napolitano", written over a horizontal line.

Janet Napolitano
Governor

Encls.

cc: Hon. Jake Flake (w/encls.)
Hon. Robert Burns (w/encls.)

1 Be it enacted by the Legislature of the State of Arizona:

2 ~~Section 1.~~ Section 15-2031, Arizona Revised Statutes, is amended to
3 read:

4 15-2031. Building renewal fund; definitions

5 A. A building renewal fund is established consisting of monies
6 appropriated by the legislature and monies credited to the fund pursuant to
7 section 42-5030.01. The school facilities board shall administer the fund
8 and distribute monies to school districts for the purpose of maintaining the
9 adequacy of existing school facilities. Monies in the fund are continuously
10 appropriated and are exempt from the provisions of section 35-190 relating
11 to lapsing of appropriations.

12 B. The school facilities board shall inventory and inspect all school
13 buildings in this state in order to develop a database to administer the
14 building renewal formula. The database shall include the student capacity
15 of the building as determined by the school facilities board. The board
16 shall distribute monies from the building renewal fund to school districts
17 in an amount computed pursuant to subsection G of this section. A school
18 district that receives monies from the building renewal fund shall use the
19 monies primarily for any buildings in the database developed or created under
20 subsection D of this section and secondly for any other buildings owned by
21 the school district for any of the following:

- 22 1. Major renovations and repairs of a building.
23 2. Upgrading systems and areas that will maintain or extend the
24 useful life of the building.
25 3. Infrastructure costs.
26 4. Relocation and placement of portable and modular buildings.

27 C. Monies received from the building renewal fund shall not be used
28 for any of the following purposes:

- 29 1. New construction.
30 2. Remodeling interior space for aesthetic or preferential reasons.
31 3. Exterior beautification.
32 4. Demolition.

33 5. The purchase of soft capital items pursuant to section 15-962,
34 subsection D.

35 6. Routine maintenance except as provided in section 15-2002,
36 subsection K and subsection J of this section.

37 D. The school facilities board shall maintain the building renewal
38 database and use the database for the computation of the building renewal
39 formula distributions. The board shall ensure that the database is updated
40 on at least an annual basis to reflect changes in the ages and value of
41 school buildings. The facilities listed in the database shall include only
42 those buildings that are owned by school districts that are required to meet
43 academic standards. Each school district shall report to the school
44 facilities board no later than September 1 of each year the number and type
45 of school buildings owned by the district, the square footage of each

building, the age of each building, the nature of any renovations completed and the cost of any renovations completed. The school facilities board may review or audit, or both, to confirm the information submitted by a school district. The board shall adjust the age of each school facility in the database whenever a building is significantly upgraded or remodeled. The age of a building that has been significantly upgraded or remodeled shall be recomputed as follows:

1. Divide the cost of the renovation by the building capacity value of the building determined in subsection G, paragraph 3 of this section.

2. Multiply the quotient determined in paragraph 1 of this subsection by the currently listed age of the building in the database.

3. Subtract the product determined in paragraph 2 of this subsection from the currently listed age of the building in the database, rounded to the nearest whole number. If the result is negative, use zero. IF THE RESULT IS GREATER THAN THIRTY, USE THIRTY.

E. The school facilities board shall submit an annual report to the president of the senate, the speaker of the house of representatives, the Arizona state library, archives and public records and the governor by October 1 that includes the computation of the amount of monies to be distributed from the building renewal fund for the current fiscal year. The joint committee on capital review shall review the school facilities board's calculation of the building renewal fund distributions. After the joint committee on capital review reviews the distributions computed by the school facilities board, the school facilities board shall distribute the monies from the building renewal fund to school districts in two equal installments in November and May of each year.

F. School districts that receive monies from the building renewal fund shall establish a district building renewal fund and shall use the monies in the district building renewal fund only for the purposes prescribed in subsection B of this section. Ending cash balances in a school district's building renewal fund may be used in following fiscal years for building renewal pursuant to subsection B of this section. By October 15 of each year, each school district shall report to the school facilities board the projects funded at each school in the previous fiscal year with monies from the district building renewal fund, an accounting of the monies remaining in the district building renewal fund at the end of the previous fiscal year and a comprehensive five-year plan that details the proposed use of building renewal monies. If a school district fails to submit the report by October 15, the school facilities board shall withhold building renewal monies from the school district until the school facilities board determines that the school district has complied with the reporting requirement. When the school facilities board determines that the school district has complied with the reporting requirement, the school facilities board shall restore the full amount of withheld building renewal monies to the school district.

1 ~~G. Notwithstanding any other provision of this chapter, if a school~~
2 district converts space that is listed in the database maintained pursuant
3 to this section to space that will be used for administrative purposes, the
4 school district is responsible for any costs associated with the conversion,
5 maintenance and replacement of that space. The building renewal amount for
6 each school building shall be computed as follows:

7 1. Divide the age of the building as computed pursuant to subsection
8 D of this section by one thousand two hundred seventy-five or, in the case
9 of modular or portable buildings, by two hundred ten.

10 2. Multiply the quotient determined in paragraph 1 of this subsection
11 by 0.67.

12 3. Determine the building capacity value as follows:

13 (a) Multiply the student capacity of the building by the per student
14 square foot capacity SQUARE FOOTAGE PER PUPIL REQUIREMENTS established by
15 section ~~15-2041~~ 15-2011.

16 (b) Multiply the product determined in subdivision (a) of this
17 paragraph by the REPLACEMENT cost per square foot established by section
18 ~~15-2041~~. FOR THE PURPOSES OF THIS SUBDIVISION, "REPLACEMENT COST" MEANS
19 EIGHTY-FIVE PER CENT OF THE COST PER SQUARE FOOT FOR NEW SCHOOL CONSTRUCTION
20 FOR THE SPECIFIC GRADE CONFIGURATION PRESCRIBED IN SECTION 15-2041.

21 4. Multiply the product determined in paragraph 2 of this subsection
22 by the product determined in paragraph 3, subdivision (b) of this subsection.

23 H. If the school facilities board determines that a school district
24 has spent monies from the building renewal fund for purposes other than those
25 prescribed in subsection B of this section, the school facilities board shall
26 notify the superintendent of public instruction. Notwithstanding any other
27 law, the superintendent of public instruction shall withhold a corresponding
28 amount from the monies that would otherwise be due the school district under
29 the capital outlay revenue limit until these monies are repaid.

30 I. Beginning on July 1, 2012, a school district is not entitled to
31 receive monies from the building renewal fund for any buildings that are to
32 be replaced with new buildings that are funded with deficiencies corrections
33 monies pursuant to section 15-2021. The replacement buildings are not
34 eligible to receive building renewal funding until the fiscal year following
35 the completion of the building.

36 J. Notwithstanding subsections B and C of this section, a school
37 district may use eight per cent of the building renewal amount computed
38 pursuant to subsection G of this section for routine preventative
39 maintenance. The board, after consultation with maintenance specialists in
40 school districts, shall provide examples of recommended services that are
41 routine preventative maintenance.

42 K. A school district that uses building renewal monies for routine
43 preventative maintenance shall use the building renewal monies to supplement
44 and not supplant expenditures from other funds for the maintenance of school
45 buildings. ~~The auditor general shall prescribe a method for determining~~

~~1 compliance with the requirements of this subsection. A school district, in
2 connection with any audit conducted by a certified public accountant, shall
3 also contract for an independent audit to determine whether the school
4 district used building renewal monies to reduce the school district's
5 existing level of routine preventative maintenance funding. The auditor
6 general may conduct discretionary reviews of a school district that is not
7 required to contract for an independent audit.~~

8 L. For the purposes of this section:

9 1. "Routine preventative maintenance" means services that are
10 performed on a regular schedule at intervals ranging from four times a year
11 to once every three years and that are intended to extend the useful life of
12 a building system and reduce the need for major repairs.

13 2. "Student capacity" has the same meaning prescribed in section
14 15-2011.

15 Sec. 2. Laws 2003, chapter 264, section 22 is amended to read:

16 Sec. 22. Authorization of state school trust revenue bonds for
17 fiscal years 2003-2004 and 2004-2005

18 A. The school facilities board shall issue in fiscal year 2003-2004
19 AND FISCAL YEAR 2004-2005 negotiable state school trust revenue bonds
20 pursuant to LAWS 2003, CHAPTER 264, AS AMENDED BY this act, in a principal
21 amount not exceeding \$247,135,000 IN FISCAL YEAR 2003-2004 AND \$25,000,000
22 IN FISCAL YEAR 2004-2005 to:

23 1. Provide monies to pay the cost of:

24 (a) Correcting existing deficiencies as prescribed by section 15-2021,
25 Arizona Revised Statutes.

26 (b) Bond related expenses including any expenses incurred by the
27 school facilities board to issue and administer its bonds including
28 underwriting fees and costs, trustee fees, financial consultant fees,
29 printing and advertising costs, paying agent fees, transfer agent fees,
30 legal, accounting, feasibility consultant and other professional fees and
31 expenses, bond insurance or other credit enhancements or liquidity
32 facilities, attorney and accounting fees and expenses related to credit
33 enhancement, bond insurance or liquidity enhancement, remarketing fees,
34 rating agency fees and costs, travel and telecommunications expenses and all
35 other fees considered necessary by the school facilities board in order to
36 market and administer the bonds.

37 2. Fully or partially fund any reserves or sinking accounts for debt
38 service on the bonds established by the bond resolution.

39 B. The school facilities board shall authorize the bonds by
40 resolution. The resolution shall prescribe:

41 1. The fixed or variable rate or rates of interest, the date or dates
42 on which interest is payable and the denominations of the bonds.

43 2. The date or dates of the bonds and maturity, within twenty years
44 after the date of issuance.

45 3. The form of the bonds.

1 4. The manner of executing the bonds.
2 5. The medium and place of payment.
3 6. The terms of redemption, which may provide for a premium for early
4 redemption.

5 C. The bonds issued pursuant to LAWS 2003, CHAPTER 264, AS AMENDED BY
6 this act, shall be known as state school trust revenue bonds.

7 D. Notwithstanding subsection A of this section, state school trust
8 revenue bonds shall not be issued in a principal amount or with terms such
9 that the total annual debt service on all outstanding state school trust
10 revenue bonds issued pursuant to LAWS 2003, CHAPTER 264, AS AMENDED BY this
11 act, all outstanding state school facilities revenue bonds issued pursuant
12 to title 15, chapter 16, article 6, Arizona Revised Statutes, all outstanding
13 qualified zone academy bonds issued pursuant to title 15, chapter 16, article
14 7, Arizona Revised Statutes, and all other bonds or other obligations issued
15 pursuant to law and payable from amounts available for debt service pursuant
16 to section 37-521, Arizona Revised Statutes, would exceed the amount
17 available for debt service under section 37-521, Arizona Revised Statutes.

18 Sec. 3. Laws 2003, chapter 264, section 23 is amended to read:

19 Sec. 23. Issuance and sale of revenue bonds; use of bond
20 proceeds

21 A. For fiscal year 2003-2004 AND FISCAL YEAR 2004-2005, the school
22 facilities board shall issue state school trust revenue bonds authorized by
23 LAWS 2003, CHAPTER 264, section 22, of AS AMENDED BY this act in the number
24 and amount provided in the resolution.

25 B. The bonds shall be sold at public or private sale at the price and
26 on the terms prescribed in the resolution at, above or below par.

27 C. If the school facilities board issues state school trust revenue
28 bonds pursuant to LAWS 2003, CHAPTER 264, AS AMENDED BY this act, the board
29 shall establish a state school trust revenue bond proceeds fund consisting
30 of the net proceeds received from the sale of the bonds.

31 D. The school facilities board may use monies in the school trust
32 revenue bond proceeds fund only for the purposes provided in LAWS 2003,
33 CHAPTER 264, section 22, subsection A, of AS AMENDED BY this act. Monies in
34 the state school trust revenue bond proceeds fund are exempt from lapsing
35 under section 35-190, Arizona Revised Statutes.

36 E. The state treasurer or bond trustee shall administer and account
37 for the state school trust revenue bond proceeds fund.

38 Sec. 4. Laws 2003, chapter 264, section 35 is amended to read:

39 Sec. 35. Project bids; joint committee on capital review
40 approval

41 A. Before the issuance IN FISCAL YEAR 2003-2004 of any state school
42 trust revenue bonds pursuant to LAWS 2003, CHAPTER 264, AS AMENDED BY this
43 act, the school facilities board shall:

44 1. Receive bids for the cost of all deficiencies correction projects
45 that will be financed with the revenue bond proceeds.

2. Submit a list of the projects, the project bids and the estimated annual principal and interest payments related to the bond agreement to the joint committee on capital review for approval.

B. BEFORE THE ISSUANCE IN FISCAL YEAR 2004-2005 OF ANY STATE SCHOOL TRUST REVENUE BONDS PURSUANT TO LAWS 2003, CHAPTER 264, AS AMENDED BY THIS ACT, THE SCHOOL FACILITIES BOARD SHALL SUBMIT THE BOND PROPOSAL TO THE JOINT COMMITTEE ON CAPITAL REVIEW FOR REVIEW.

C. The school facilities board shall report to the joint committee on capital review the cost of the remaining projects in the Tucson Unified School District, the Mesa Unified School District and the Glendale Union High School District after receiving bids for projects in those districts.

Sec. 5. Laws 2003, first special session, chapter 2, section 27 is amended to read:

Sec. 27. Appropriation; deficiencies correction fund; report

A. The sum of ~~\$100,000,000~~ \$75,000,000 is appropriated from the state general fund in fiscal year 2004-2005 to the deficiencies correction fund.

B. THE SCHOOL FACILITIES BOARD SHALL REPORT TO THE JOINT COMMITTEE ON CAPITAL REVIEW ON THE COST OF DEFICIENCIES CORRECTION PROJECTS FINANCED PURSUANT TO THIS SECTION.

Sec. 6. New school facilities; lease-to-own

A. The school facilities board shall enter into lease-to-own transactions pursuant to sections 15-2004, 15-2005 and 15-2006, Arizona Revised Statutes, to pay for the costs of new school facilities in fiscal year 2004-2005.

B. Notwithstanding section 15-2006, Arizona Revised Statutes, the school facilities board shall enter into lease-to-own transactions in an amount not to exceed \$250,000,000 in fiscal year 2004-2005 in order to fulfill the requirements of section 15-2041, Arizona Revised Statutes.

C. Notwithstanding section 15-2041, Arizona Revised Statutes, the school facilities board may transfer monies from the new school facilities fund to the lease-to-own fund established by section 15-2004, Arizona Revised Statutes, in fiscal year 2004-2005 for the purposes of that section.

D. Notwithstanding section 35-190, Arizona Revised Statutes, monies remaining in the lease-to-own fund established by section 15-2004, Arizona Revised Statutes, at the end of fiscal year 2003-2004 shall not revert to the state general fund.

Sec. 7. Building renewal fund; transfer

Notwithstanding any other law, the sum of \$104,894,500 is transferred in fiscal year 2004-2005 from the building renewal fund established by section 15-2031, Arizona Revised Statutes, to the state general fund.



~~1 Sec. 8. Effective date; applicability~~

2 A. Section 15-2031, Arizona Revised Statutes, as amended by this act,
3 is effective from and after June 30, 2004.

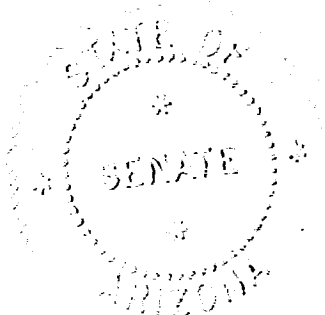
4 B. Notwithstanding subsection A of this section, the school facilities
5 board shall use the provisions of section 15-2031, Arizona Revised Statutes,
6 as amended by this act, in fiscal year 2004-2005 to make calculations under
7 the building renewal formula for fiscal year 2005-2006.

8 Sec. 9. Retroactivity

9 Sections 2 through 7 of this act are effective retroactively to from
10 and after June 30, 2004.

APPROVED BY THE GOVERNOR MAY 28, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 28, 2004.



Passed the House May 20, 20 04,

by the following vote: 35 Ayes,

25 Nays, 0 Not Voting

Jake Flake
Speaker of the House
Speman L. Syore
Chief Clerk of the House

Passed the Senate May 5, 20 04,

by the following vote: 25 Ayes,

5 Nays, 0 Not Voting

Klu Bennett
President of the Senate
Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

24th day of May, 20 04,

at 3:49 o'clock P. M.

Jennifer Lybarra
Secretary to the Governor

Approved this 28 day of

May, 20 04,

at 11³⁰ o'clock A. M.

J. R. Nye
Governor of Arizona

S.B. 1406

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 28 day of May, 20 04,

at 1:46 o'clock P. M.
Janice K. Brewer
Secretary of State